

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 224

HOUSE BILL 2186

AN ACT

AMENDING SECTION 20-1233, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 1.1 AND 1.2; RELATING TO LIFE INSURANCE AND ANNUITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1233, Arizona Revised Statutes, is amended to
3 read:

4 20-1233. Free look; annuity contracts

5 A. Each annuity contract delivered or issued for delivery in this
6 state and each annuity application shall contain a notice prominently printed
7 on or attached to the first page stating that, on written request, an insurer
8 is required to provide within a reasonable time reasonable factual
9 information regarding the benefits and provisions of the annuity contract to
10 the contract holder and that if for any reason the contract holder is not
11 satisfied with the annuity contract the contract holder may return the
12 annuity contract within ten days, OR WITHIN THIRTY DAYS IF THE CONTRACT
13 HOLDER IS SIXTY-FIVE YEARS OF AGE OR OLDER ON THE DATE OF THE APPLICATION FOR
14 THE ANNUITY CONTRACT, after the contract is delivered and receive a refund
15 of all monies paid.

16 B. Notwithstanding subsection A, for variable annuity contracts, the
17 refund under subsection A shall equal the sum of the difference between the
18 premiums paid, including any policy or contract fees or other charges, and
19 the amounts allocated to any separate accounts under the policy or contract,
20 and the value of the amounts allocated to any separate accounts under the
21 policy or contract on the date the returned policy is received by the insurer
22 or its insurance producer.

23 C. The ten OR THIRTY day return and refund provision provided in
24 subsection A does not apply to an annuity contract supplemental to a settled
25 annuity contract that provides for payments in consideration of accumulations
26 from the original annuity contract and that is issued only to holders of the
27 original contract.

28 Sec. 2. Title 20, chapter 6, Arizona Revised Statutes, is amended by
29 adding articles 1.1 and 1.2, to read:

30 ARTICLE 1.1. REPLACEMENT OF LIFE

31 INSURANCE POLICIES AND ANNUITY CONTRACTS

32 20-1241. Definitions

33 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

34 1. "CONTRACT" MEANS A CONTRACT FOR THE PURCHASE OF AN ANNUITY.

35 2. "DIRECT RESPONSE SOLICITATION" MEANS A SOLICITATION TO PURCHASE A
36 POLICY OR CONTRACT SOLELY THROUGH MAIL, TELEPHONE, THE INTERNET OR OTHER MASS
37 COMMUNICATION MEDIA.

38 3. "DIRECT SOLICITATION" MEANS PERSONAL CONTACT TO SOLICIT SOMEONE TO
39 PURCHASE A POLICY OR CONTRACT, BUT DOES NOT INCLUDE ANY GROUP MEETING HELD
40 BY AN INSURANCE PRODUCER SOLELY FOR THE PURPOSE OF EDUCATING OR ENROLLING
41 INDIVIDUALS OR WHEN INITIATED BY AN INDIVIDUAL MEMBER OF A GROUP ASSISTING
42 THE INDIVIDUAL WITH SELECTION OF INVESTMENT OPTIONS OFFERED BY A SINGLE
43 INSURER IN CONNECTION WITH ENROLLING THAT INDIVIDUAL.

44 4. "EXISTING INSURER" MEANS THE INSURER WHOSE POLICY OR CONTRACT IS
45 OR WILL BE REPLACED.

1 5. "EXISTING POLICY OR CONTRACT" MEANS A POLICY OR CONTRACT THAT IS
2 IN FORCE AND INCLUDES A POLICY UNDER A BINDING OR CONDITIONAL RECEIPT AND A
3 POLICY OR CONTRACT THAT IS WITHIN AN UNCONDITIONAL REFUND PERIOD.

4 6. "FINANCED PURCHASE" MEANS THE PURCHASE OF A NEW POLICY INVOLVING
5 THE ACTUAL OR INTENDED USE OF MONIES OBTAINED BY THE WITHDRAWAL OR SURRENDER
6 OF, OR BY BORROWING FROM VALUES OF, AN EXISTING POLICY TO PAY ALL OR PART OF
7 ANY PREMIUM DUE ON THE NEW POLICY. FOR AN INDIVIDUAL TRANSACTION ONLY, IF
8 A WITHDRAWAL, SURRENDER OR BORROWING INVOLVING THE POLICY VALUES OF AN
9 EXISTING POLICY IS USED TO PAY PREMIUMS ON A NEW POLICY OWNED BY THE SAME
10 POLICYHOLDER AND ISSUED BY THE SAME INSURER WITHIN FOUR MONTHS BEFORE OR
11 THIRTEEN MONTHS AFTER THE EFFECTIVE DATE OF THE NEW POLICY, IT IS DEEMED
12 PRIMA FACIE EVIDENCE OF A FINANCED PURCHASE.

13 7. "ILLUSTRATION" MEANS A PRESENTATION OR DEPICTION THAT INCLUDES
14 NONGUARANTEED ELEMENTS OF A POLICY OF LIFE INSURANCE OVER A PERIOD OF YEARS.

15 8. "INSURANCE PRODUCER" HAS THE SAME MEANING PRESCRIBED IN SECTION
16 20-281.

17 9. "POLICY SUMMARY" MEANS A DESCRIPTION OF A POLICY OR CONTRACT THAT
18 MEETS THE REQUIREMENTS IN SECTION 20-1241.02 AND PRESCRIBED BY THE DIRECTOR.

19 10. "REGISTERED CONTRACT" MEANS A VARIABLE ANNUITY CONTRACT OR VARIABLE
20 LIFE INSURANCE POLICY SUBJECT TO THE PROSPECTUS DELIVERY REQUIREMENTS OF THE
21 SECURITIES ACT OF 1933 (P.L. 107-377; 15 UNITED STATES CODE SECTIONS 77a
22 THROUGH 77aa).

23 11. "REPLACED" OR "REPLACEMENT" MEANS A TRANSACTION IN WHICH A NEW
24 POLICY OR CONTRACT IS TO BE PURCHASED AND IT IS KNOWN OR SHOULD BE KNOWN TO
25 THE PROPOSING INSURANCE PRODUCER, OR TO THE PROPOSING INSURER IF THERE IS NO
26 INSURANCE PRODUCER, THAT BY REASON OF THE TRANSACTION AN EXISTING POLICY OR
27 CONTRACT HAS BEEN OR IS TO BE:

28 (a) LAPSED, FORFEITED, SURRENDERED OR PARTIALLY SURRENDERED, ASSIGNED
29 TO THE REPLACING INSURER OR OTHERWISE TERMINATED.

30 (b) CONVERTED TO REDUCED PAID-UP INSURANCE, CONTINUED AS EXTENDED TERM
31 INSURANCE OR OTHERWISE REDUCED IN VALUE BY THE USE OF NONFORFEITURE BENEFITS
32 OR OTHER POLICY VALUES.

33 (c) AMENDED SO AS TO EFFECT EITHER A REDUCTION IN BENEFITS OR IN THE
34 TERM FOR WHICH COVERAGE WOULD OTHERWISE REMAIN IN FORCE OR FOR WHICH BENEFITS
35 WOULD BE PAID.

36 (d) REISSUED WITH ANY REDUCTION IN CASH VALUE.

37 (e) USED IN A FINANCED PURCHASE.

38 12. "REPLACING INSURER" MEANS THE INSURER THAT ISSUES OR PROPOSES TO
39 ISSUE A NEW POLICY OR CONTRACT THAT REPLACES AN EXISTING POLICY OR CONTRACT
40 OR IS A FINANCED PURCHASE.

41 13. "SALES MATERIAL" MEANS A SALES ILLUSTRATION AND ANY OTHER WRITTEN,
42 PRINTED OR ELECTRONICALLY PRESENTED INFORMATION THAT IS CREATED, COMPLETED
43 OR PROVIDED BY AN INSURER OR INSURANCE PRODUCER, THAT IS USED IN THE
44 PRESENTATION TO THE POLICY OR CONTRACT OWNER AND THAT IS RELATED TO THE
45 POLICY OR CONTRACT PURCHASED.

1 20-1241.01. Scope of article

2 A. THIS ARTICLE APPLIES TO THE REPLACEMENT OF POLICIES AND CONTRACTS
3 EXCEPT FOR THE FOLLOWING:

4 1. CREDIT LIFE INSURANCE.

5 2. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, GROUP POLICIES
6 AND CONTRACTS THAT DO NOT INVOLVE DIRECT SOLICITATION OF INDIVIDUALS BY AN
7 INSURANCE PRODUCER.

8 3. POLICIES AND CONTRACTS USED TO FUND PREARRANGED FUNERAL AGREEMENTS
9 AS DEFINED IN SECTION 32-1301.

10 4. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, A POLICY OR
11 CONTRACT THAT IS USED TO FUND:

12 (a) A PENSION AND WELFARE PLAN AS DEFINED BY AND THAT IS SUBJECT TO
13 THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (29 UNITED STATES CODE
14 SECTION 1001 THROUGH 1461).

15 (b) A PLAN DESCRIBED BY SECTIONS 401(a), 401(k) OR 403(b) OF THE
16 INTERNAL REVENUE CODE, WHERE THE PLAN, FOR PURPOSES OF THE EMPLOYEE
17 RETIREMENT INCOME SECURITY ACT OF 1974, IS ESTABLISHED OR MAINTAINED BY AN
18 EMPLOYER.

19 (c) A GOVERNMENTAL OR CHURCH PLAN AS DEFINED IN SECTION 414 OF THE
20 INTERNAL REVENUE CODE, A GOVERNMENTAL OR CHURCH WELFARE BENEFIT PLAN, OR A
21 DEFERRED COMPENSATION PLAN OF A STATE OR LOCAL GOVERNMENT OR A TAX EXEMPT
22 ORGANIZATION PURSUANT TO SECTION 457 OF THE INTERNAL REVENUE CODE.

23 (d) A NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENT ESTABLISHED OR
24 MAINTAINED BY AN EMPLOYER OR PLAN SPONSOR.

25 5. AN APPLICATION TO THE EXISTING INSURER THAT ISSUED THE EXISTING
26 POLICY OR CONTRACT:

27 (a) TO EXERCISE A CONTRACTUAL CHANGE OR CONVERSION PRIVILEGE.

28 (b) IF THE EXISTING INSURER IS REPLACING THE EXISTING POLICY OR
29 CONTRACT PURSUANT TO A PROGRAM FILED WITH AND APPROVED BY THE DIRECTOR.

30 6. EXISTING LIFE INSURANCE THAT IS A NONRENEWABLE AND NONCONVERTIBLE
31 TERM LIFE INSURANCE POLICY THAT WILL EXPIRE IN FIVE YEARS OR LESS.

32 7. PROPOSED LIFE INSURANCE THAT IS TO REPLACE LIFE INSURANCE UNDER A
33 BINDING OR CONDITIONAL RECEIPT ISSUED BY THE SAME INSURER.

34 8. NEW COVERAGE THAT IS PROVIDED UNDER A POLICY OR CONTRACT IF THE
35 INSURED'S EMPLOYER OR AN ASSOCIATION OF WHICH THE INSURED IS A MEMBER BEARS
36 ALL COSTS.

37 9. IMMEDIATE ANNUITIES THAT ARE PURCHASED WITH PROCEEDS FROM AN
38 EXISTING CONTRACT. IMMEDIATE ANNUITIES PURCHASED WITH PROCEEDS FROM AN
39 EXISTING POLICY ARE SUBJECT TO THIS ARTICLE.

40 10. STRUCTURED SETTLEMENTS AS DEFINED IN SECTION 12-2901.

41 B. GROUP POLICIES AND CONTRACTS INVOLVING DIRECT SOLICITATION ARE
42 SUBJECT TO THIS ARTICLE.

43 C. THIS ARTICLE APPLIES TO A POLICY OR CONTRACT THAT IS USED TO FUND
44 ANY PLAN OR ARRANGEMENT THAT MEETS THE FOLLOWING REQUIREMENTS:

1 1. THE PLAN OR ARRANGEMENT IS FUNDED SOLELY BY CONTRIBUTIONS AN
2 EMPLOYEE ELECTS TO MAKE ON A PRETAX OR AFTER TAX BASIS.

3 2. THE INSURER HAS BEEN NOTIFIED THAT PLAN PARTICIPANTS MAY CHOOSE
4 FROM AMONG TWO OR MORE CONTRACT PROVIDERS OR POLICY PROVIDERS.

5 3. THE INSURANCE PRODUCER DIRECTLY SOLICITS INDIVIDUAL EMPLOYEES FOR
6 THE PURCHASE OF THE CONTRACT OR POLICY.

7 D. REGISTERED CONTRACTS ARE EXEMPT FROM THE REQUIREMENTS OF THIS
8 ARTICLE WITH RESPECT TO THE PROVISION OF ILLUSTRATIONS OR POLICY
9 SUMMARIES. PREMIUM OR CONTRACT CONTRIBUTION AMOUNTS AND IDENTIFICATION OF
10 THE APPROPRIATE PROSPECTUS OR OFFERING CIRCULAR IS REQUIRED.

11 20-1241.02. Policy summary requirements

12 A. ANY POLICY SUMMARY REQUIRED UNDER THIS ARTICLE SHALL BE IN WRITING
13 AND SHALL SATISFY THE REQUIREMENTS OF THIS SECTION.

14 B. A SUMMARY OF A POLICY OR CONTRACT OTHER THAN A UNIVERSAL LIFE
15 POLICY SHALL CONTAIN, TO THE EXTENT APPLICABLE, AT LEAST THE FOLLOWING
16 INFORMATION:

- 17 1. CURRENT DEATH BENEFIT.
- 18 2. ANNUAL CONTRACT PREMIUM.
- 19 3. CURRENT CASH SURRENDER VALUE.
- 20 4. CURRENT DIVIDEND.
- 21 5. APPLICATION OF CURRENT DIVIDEND.
- 22 6. AMOUNT OF OUTSTANDING LOAN.

23 C. A SUMMARY OF A UNIVERSAL LIFE POLICY SHALL CONTAIN AT LEAST THE
24 FOLLOWING INFORMATION:

- 25 1. THE BEGINNING AND END DATE OF THE CURRENT REPORT PERIOD.
- 26 2. THE POLICY VALUE AT THE END OF THE PREVIOUS REPORT PERIOD AND AT
27 THE END OF THE CURRENT REPORT PERIOD.
- 28 3. THE TOTAL AMOUNTS THAT HAVE BEEN CREDITED OR DEBITED TO THE POLICY
29 VALUE DURING THE CURRENT REPORT PERIOD, IDENTIFYING EACH BY TYPE.
- 30 4. THE CURRENT DEATH BENEFIT AT THE END OF THE CURRENT REPORT PERIOD
31 ON EACH LIFE COVERED BY THE POLICY.
- 32 5. THE NET CASH SURRENDER VALUE OF THE POLICY AS OF THE END OF THE
33 CURRENT REPORT PERIOD.
- 34 6. THE AMOUNT OF OUTSTANDING LOANS, IF ANY, AS OF THE END OF THE
35 CURRENT REPORT PERIOD.

36 20-1241.03. Duties of insurance producers

37 A. AN INSURANCE PRODUCER WHO INITIATES AN APPLICATION SHALL SUBMIT TO
38 THE INSURER, WITH OR AS PART OF THE APPLICATION, A STATEMENT SIGNED BY BOTH
39 THE APPLICANT AND THE INSURANCE PRODUCER AS TO WHETHER THE APPLICANT HAS AN
40 EXISTING POLICY OR CONTRACT.

41 B. IF THE ANSWER IS "NO" TO THE QUESTION UNDER SUBSECTION A OF THIS
42 SECTION REGARDING EXISTING COVERAGE, THE INSURANCE PRODUCER HAS NO FURTHER
43 REPLACEMENT DUTIES.

44 C. IF THE ANSWER IS "YES" TO THE QUESTION UNDER SUBSECTION A OF THIS
45 SECTION REGARDING EXISTING COVERAGE, THE INSURANCE PRODUCER SHALL PRESENT AND

1 READ TO THE APPLICANT, NOT LATER THAN THE TIME OF TAKING THE APPLICATION, A
2 NOTICE REGARDING REPLACEMENTS THAT IS IN A FORM THAT THE DIRECTOR HAS
3 APPROVED OR PRESCRIBED BY RULE.

4 D. THE APPLICANT AND THE INSURANCE PRODUCER SHALL SIGN THE NOTICE
5 REQUIRED UNDER SUBSECTION C OF THIS SECTION. THE INSURANCE PRODUCER SHALL
6 LEAVE THE SIGNED NOTICE WITH THE APPLICANT. IF THE NOTICE IS PRESENTED
7 ELECTRONICALLY, THE INSURER SHALL MAIL THE APPLICANT A COPY OF THE NOTICE
8 WITHIN THREE BUSINESS DAYS AFTER THE APPLICATION IS SUBMITTED TO THE INSURER.
9 IN THE NOTICE THE INSURANCE PRODUCER AND THE APPLICANT SHALL ATTEST THAT THE
10 INSURANCE PRODUCER EITHER READ THE NOTICE ALOUD OR THAT THE APPLICANT DID NOT
11 WISH THE NOTICE TO BE READ ALOUD, IN WHICH CASE THE PRODUCER NEED NOT HAVE
12 READ THE NOTICE ALOUD.

13 E. THE NOTICE PRESCRIBED IN SUBSECTION C OF THIS SECTION SHALL:

14 1. IDENTIFY EACH POLICY AND CONTRACT PROPOSED TO BE REPLACED BY:

15 (a) NAME OF THE INSURER.

16 (b) NAME OF THE INSURED OR ANNUITANT.

17 (c) POLICY OR CONTRACT NUMBER IF AVAILABLE.

18 (d) APPLICATION OR RECEIPT NUMBER IF THE POLICY OR CONTRACT NUMBER IS
19 NOT AVAILABLE.

20 2. INCLUDE A STATEMENT AS TO WHETHER EACH POLICY OR CONTRACT WILL BE
21 REPLACED OR WHETHER A POLICY WILL BE USED AS A SOURCE OF FINANCING FOR THE
22 NEW POLICY OR CONTRACT.

23 F. IF THE APPLICATION FOR A NEW POLICY OR CONTRACT IS COMPLETED IN ANY
24 REPLACEMENT TRANSACTION, THE INSURANCE PRODUCER SHALL GIVE THE APPLICANT THE
25 ORIGINAL OR A COPY OF ALL SALES MATERIAL. THE INSURANCE PRODUCER OR INSURER
26 SHALL PROVIDE THE APPLICANT WITH A PRINTED COPY OF ANY ELECTRONICALLY
27 PRESENTED SALES MATERIAL NOT LATER THAN AT THE TIME OF POLICY OR CONTRACT
28 DELIVERY.

29 G. EXCEPT AS PROVIDED IN SECTION 20-1241.05, SUBSECTION G, IN
30 CONNECTION WITH ANY REPLACEMENT TRANSACTION, AN INSURANCE PRODUCER SHALL
31 SUBMIT TO THE INSURER TO WHICH AN APPLICATION FOR A POLICY OR CONTRACT IS
32 PRESENTED A COPY OF:

33 1. EACH DOCUMENT REQUIRED BY THIS SECTION.

34 2. A STATEMENT IDENTIFYING ANY PREPRINTED OR ELECTRONICALLY PRESENTED
35 COMPANY APPROVED SALES MATERIALS USED.

36 3. ANY INDIVIDUALIZED SALES MATERIALS, INCLUDING ANY ILLUSTRATIONS
37 RELATED TO THE SPECIFIC POLICY OR CONTRACT PURCHASED.

38 20-1241.04. Duties of insurers that use insurance producers

39 A. AN INSURER THAT USES AN INSURANCE PRODUCER SHALL COMPLY WITH THE
40 REQUIREMENTS OF THIS SECTION.

41 B. THE INSURER SHALL MAINTAIN A SYSTEM FOR SUPERVISION AND CONTROL OF
42 INSURANCE PRODUCERS THAT ENSURES COMPLIANCE WITH THE REQUIREMENTS OF THIS
43 ARTICLE INCLUDING AT LEAST THE FOLLOWING:

1 1. A METHOD TO INFORM INSURANCE PRODUCERS OF THE REQUIREMENTS OF THIS
2 ARTICLE AND TO INCORPORATE THOSE REQUIREMENTS INTO THE INSURER'S RELEVANT
3 INSURANCE PRODUCER TRAINING MANUALS.

4 2. A SYSTEM TO PROVIDE EACH INSURANCE PRODUCER WITH A WRITTEN
5 STATEMENT OF THE INSURER'S POSITION ON THE ACCEPTABILITY OF REPLACEMENTS TO
6 GUIDE THE INSURANCE PRODUCER AS TO THE APPROPRIATENESS OF A REPLACEMENT
7 TRANSACTION.

8 3. A SYSTEM TO REVIEW THE APPROPRIATENESS OF EACH REPLACEMENT
9 TRANSACTION FOR COMPLIANCE WITH THE INSURER'S REPLACEMENT POLICY DESCRIBED
10 IN PARAGRAPH 2 OF THIS SUBSECTION.

11 4. A PROCEDURE TO CONFIRM THAT THE REQUIREMENTS OF THIS ARTICLE HAVE
12 BEEN MET.

13 5. A PROCEDURE TO DETECT REPLACEMENT TRANSACTIONS THAT HAVE NOT BEEN
14 REPORTED AS SUCH BY THE APPLICANT OR INSURANCE PRODUCER. AN INSURER MAY
15 COMPLY WITH THIS REQUIREMENT BY SYSTEMATIC CUSTOMER SURVEYS, INTERVIEWS,
16 CONFIRMATION LETTERS OR PROGRAMS OF INTERNAL MONITORING.

17 C. THE INSURER SHALL HAVE THE CAPACITY TO MONITOR EACH PRODUCER'S
18 POLICY AND CONTRACT REPLACEMENTS FOR THAT INSURER AND SHALL BE ABLE TO
19 PRODUCE, ON REQUEST, AND MAKE AVAILABLE TO THE DEPARTMENT THE FOLLOWING
20 RECORDS FOR EACH INSURANCE PRODUCER:

21 1. LIFE REPLACEMENTS, INCLUDING FINANCED PURCHASES, AS A PERCENTAGE
22 OF THE PRODUCER'S TOTAL ANNUAL SALES FOR LIFE POLICIES COVERED UNDER SECTION
23 20-1241.01.

24 2. NUMBER OF LAPSES OF POLICIES BY THE INSURANCE PRODUCER AS A
25 PERCENTAGE OF THE INSURANCE PRODUCER'S TOTAL ANNUAL SALES FOR LIFE POLICIES
26 COVERED UNDER SECTION 20-1241.01.

27 3. ANNUITY CONTRACT AND REPLACEMENTS AS A PERCENTAGE OF THE PRODUCER'S
28 TOTAL ANNUAL ANNUITY CONTRACT SALES.

29 4. NUMBER OF TRANSACTIONS THAT ARE UNREPORTED REPLACEMENTS OF EXISTING
30 POLICIES OR CONTRACTS DETECTED BY THE INSURER'S MONITORING SYSTEM AS REQUIRED
31 BY SUBSECTION B, PARAGRAPH 5 OF THIS SECTION.

32 5. REPLACEMENTS, INDEXED BY THE REPLACING INSURANCE PRODUCER AND THE
33 EXISTING INSURER.

34 D. WITH OR AS A PART OF EACH APPLICATION FOR A POLICY OR CONTRACT, THE
35 INSURER SHALL REQUIRE THE SIGNED STATEMENT PRESCRIBED BY SECTION 20-1241.03,
36 SUBSECTION A.

37 E. WITH EACH APPLICATION FOR A REPLACEMENT POLICY OR CONTRACT, THE
38 INSURER SHALL REQUIRE THE NOTICE PRESCRIBED BY SECTION 20-1241.03,
39 SUBSECTIONS C AND D.

40 F. IF AN APPLICANT HAS AN EXISTING POLICY OR CONTRACT, THE INSURER
41 SHALL REQUIRE AND SHALL BE ABLE TO PRODUCE FOR AT LEAST FIVE YEARS AFTER THE
42 TERMINATION OR EXPIRATION OF THE PROPOSED POLICY OR CONTRACT:

43 1. COPIES OF ANY SALES MATERIALS.

44 2. THE BASIC ILLUSTRATION AND ANY SUPPLEMENTAL ILLUSTRATIONS RELATED
45 TO THE SPECIFIC POLICY OR CONTRACT THAT IS PURCHASED.

H. IF AN APPLICATION DOES NOT MEET THE REQUIREMENTS OF THIS ARTICLE, THE INSURER SHALL NOTIFY THE INSURANCE PRODUCER AND APPLICANT AND FULFILL ANY OUTSTANDING REQUIREMENTS.

20-1241.05. Duties of replacing insurers that use insurance producers

B. THE INSURER SHALL VERIFY THAT IT HAS RECEIVED ALL REQUIRED FORMS AND THAT THE FORMS COMPLY WITH THIS ARTICLE.

D. THE INSURER SHALL BE ABLE TO PRODUCE COPIES OF THE NOTIFICATION REGARDING REPLACEMENT REQUIRED IN SECTION 20-1241.03, SUBSECTIONS C AND D, INDEXED BY THE INSURANCE PRODUCER, FOR AT LEAST FIVE YEARS OR UNTIL THE NEXT REGULAR EXAMINATION BY THE INSURANCE REGULATORY AUTHORITY OF ITS STATE OF DOMICILE, WHICHEVER IS LATER.

F. IF THE REPLACING INSURER AND THE EXISTING INSURER ARE THE SAME OR SUBSIDIARIES OR AFFILIATES UNDER COMMON OWNERSHIP OR CONTROL, THE REPLACING INSURER SHALL ALLOW CREDIT FOR THE PERIOD OF TIME THAT HAS ELAPSED UNDER THE REPLACEMENT POLICY'S OR CONTRACT'S INCONTESTABILITY AND SUICIDE PERIOD UP TO THE FACE AMOUNT OF THE EXISTING POLICY OR CONTRACT. FOR FINANCED PURCHASES, THE INSURER MAY LIMIT THE CREDIT TO THE AMOUNT THAT THE FACE AMOUNT OF THE

1 EXISTING POLICY IS REDUCED BY THE USE OF EXISTING POLICY VALUES TO FUND THE
2 NEW POLICY OR CONTRACT.

3 G. IF AN INSURER PROHIBITS THE USE OF SALES MATERIALS THE INSURER HAS
4 NOT APPROVED, THE INSURER MAY, AS AN ALTERNATIVE TO THE REQUIREMENTS OF
5 SECTION 20-1241.03, SUBSECTION G, COMPLY AS FOLLOWS:

6 1. THE INSURER SHALL REQUIRE AN INSURANCE PRODUCER TO SUBMIT A SIGNED
7 STATEMENT WITH EACH APPLICATION STATING THAT THE INSURANCE PRODUCER USED ONLY
8 SALES MATERIAL THAT THE INSURER APPROVED AND WILL PROVIDE COPIES TO THE
9 APPLICANT AS REQUIRED BY SECTION 20-1241.03, SUBSECTION F.

10 2. WITHIN TEN DAYS OF THE ISSUANCE OF THE POLICY OR CONTRACT, THE
11 INSURER SHALL:

12 (a) NOTIFY THE APPLICANT BY LETTER OR BY VERBAL COMMUNICATION FROM A
13 PERSON WHOSE DUTIES ARE SEPARATE FROM THE MARKETING AREA OF THE INSURER THAT
14 THE INSURANCE PRODUCER MADE THE REPRESENTATION ABOUT LEAVING SALES MATERIALS
15 AS DESCRIBED IN PARAGRAPH 1.

16 (b) PROVIDE THE APPLICANT WITH A TOLL FREE NUMBER TO CONTACT INSURER
17 PERSONNEL RESPONSIBLE FOR REGULATORY COMPLIANCE IF THE INSURANCE PRODUCER DID
18 NOT LEAVE SALES MATERIALS.

19 (c) ADVISE THE APPLICANT THAT IT IS IMPORTANT TO RETAIN COPIES OF THE
20 SALES MATERIAL FOR FUTURE REFERENCE.

21 3. THE INSURER SHALL BE ABLE TO PRODUCE A COPY OF THE LETTER OR OTHER
22 VERIFICATION REQUIRED BY PARAGRAPH 2, SUBDIVISION (a) FOR AT LEAST FIVE YEARS
23 AFTER THE TERMINATION OR EXPIRATION OF THE POLICY OR CONTRACT.

24 20-1241.06. Duties of existing insurer

25 A. AN EXISTING INSURER SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS
26 FOR ANY REPLACEMENT TRANSACTION:

27 1. THE INSURER SHALL RETAIN AND BE ABLE TO PROVIDE THE DIRECTOR WITH
28 ALL NOTIFICATIONS RECEIVED, INDEXED BY REPLACING INSURER, FOR AT LEAST FIVE
29 YEARS OR UNTIL THE CONCLUSION OF ITS NEXT EXAMINATION BY THE INSURANCE
30 REGULATORY AUTHORITY OF ITS STATE OF DOMICILE, WHICHEVER IS LATER.

31 2. WITHIN FIVE BUSINESS DAYS OF RECEIVING A REPLACEMENT NOTICE, THE
32 INSURER SHALL SEND THE POLICY OR CONTRACT OWNER A LETTER ADVISING THE OWNER
33 OF THE RIGHT TO RECEIVE INFORMATION ABOUT THE EXISTING POLICY OR CONTRACT
34 VALUES INCLUDING, IF AVAILABLE, AN IN-FORCE ILLUSTRATION OR A POLICY SUMMARY
35 IF AN IN-FORCE ILLUSTRATION CANNOT BE PRODUCED. THE INSURER SHALL PROVIDE
36 THE POLICY OR CONTRACT OWNER WITH THIS INFORMATION WITHIN FIVE BUSINESS DAYS
37 OF THE RECEIPT OF A REQUEST FROM THE POLICY OR CONTRACT OWNER.

38 3. ON RECEIPT OF A REQUEST TO BORROW, SURRENDER OR WITHDRAW ANY POLICY
39 VALUES, THE INSURER SHALL SEND A NOTICE ADVISING THE POLICY OWNER THAT A
40 RELEASE OF POLICY VALUES MAY AFFECT THE GUARANTEED ELEMENTS, NONGUARANTEED
41 ELEMENTS, FACE AMOUNT OR SURRENDER VALUE OF THE POLICY FROM WHICH THE VALUES
42 ARE RELEASED.

43 B. THE INSURER SHALL SEND THE NOTICE REQUIRED BY SUBSECTION A,
44 PARAGRAPH 3 SEPARATE FROM THE CHECK IF THE CHECK IS SENT TO ANYONE OTHER THAN

1 THE POLICY OWNER. IN THE CASE OF CONSECUTIVE AUTOMATIC PREMIUM LOANS, THE
2 INSURER SHALL SEND THE NOTICE ONLY AT THE TIME OF THE FIRST LOAN.

3 20-1241.07. Duties of insurers with respect to direct response
4 solicitations

5 A. IF A PERSON APPLIES FOR A POLICY OR CONTRACT IN RESPONSE TO A
6 DIRECT RESPONSE SOLICITATION, THE INSURER SHALL REQUIRE, WITH OR AS PART OF
7 EACH COMPLETED APPLICATION FOR A POLICY OR CONTRACT, A STATEMENT ASKING
8 WHETHER THE APPLICANT, BY APPLYING FOR THE PROPOSED POLICY OR CONTRACT,
9 INTENDS TO REPLACE, DISCONTINUE OR CHANGE AN EXISTING POLICY OR CONTRACT. IF
10 THE APPLICANT INDICATES A REPLACEMENT OR CHANGE IS NOT INTENDED OR IF THE
11 APPLICANT FAILS TO RESPOND TO THE STATEMENT, THE INSURER SHALL SEND THE
12 APPLICANT, WITH THE POLICY OR CONTRACT, A NOTICE THAT THE DIRECTOR HAS
13 APPROVED OR PRESCRIBED BY RULE.

14 B. IF THE INSURER HAS PROPOSED THE REPLACEMENT OR IF THE APPLICANT
15 INDICATES A REPLACEMENT IS INTENDED AND THE INSURER CONTINUES WITH THE
16 REPLACEMENT, THE INSURER SHALL:

17 1. COMPLY WITH THE REQUIREMENTS OF SECTION 20-1241.05, SUBSECTIONS C
18 AND D IF THE APPLICANT FURNISHES THE NAMES OF THE EXISTING INSURER, AND THE
19 REQUIREMENTS OF SECTION 20-1241.05, SUBSECTIONS E AND F.

20 2. WITH THE POLICY OR CONTRACT, PROVIDE THE APPLICANT OR PROSPECTIVE
21 APPLICANT WITH A NOTICE AS REQUIRED UNDER SECTION 20-1241.05.

22 20-1241.08. Violations; penalties; intent

23 A. ANY PERSON WHO DOES NOT COMPLY WITH THE APPLICABLE REQUIREMENTS OF
24 THIS ARTICLE IS SUBJECT TO PENALTIES PRESCRIBED UNDER SECTIONS 20-220, 20-295
25 AND 20-456. VIOLATIONS INCLUDE:

26 1. ANY DECEPTIVE OR MISLEADING INFORMATION SET FORTH IN SALES
27 MATERIAL.

28 2. WHEN COMPLETING AN APPLICATION, FAILING TO ASK THE APPLICANT THE
29 PERTINENT QUESTIONS REGARDING THE POSSIBILITY OF FINANCING OR REPLACEMENT.

30 3. THE INTENTIONAL INCORRECT RECORDING OF AN ANSWER.

31 4. ADVISING AN APPLICANT TO RESPOND NEGATIVELY TO ANY QUESTION
32 REGARDING REPLACEMENT IN ORDER TO PREVENT NOTICE TO THE EXISTING INSURER.

33 5. ADVISING A POLICY OR CONTRACT OWNER TO WRITE DIRECTLY TO THE
34 COMPANY IN SUCH A WAY AS TO ATTEMPT TO OBSCURE THE IDENTITY OF THE REPLACING
35 INSURANCE PRODUCER OR COMPANY.

36 B. A POLICY OR CONTRACT OWNER MAY REPLACE EXISTING LIFE INSURANCE OR
37 ANNUITIES AFTER INDICATING IN OR AS PART OF AN APPLICATION FOR NEW COVERAGE
38 THAT REPLACEMENT IS NOT INTENDED. A PATTERN OF SUCH ACTION BY A POLICY OR
39 CONTRACT OWNER WHO BUYS NEW COVERAGE FROM THE SAME PRODUCER IS DEEMED PRIMA
40 FACIE EVIDENCE OF THE INSURANCE PRODUCER'S KNOWLEDGE THAT REPLACEMENT WAS
41 INTENDED IN CONNECTION WITH THE TRANSACTION AND OF THE INSURANCE PRODUCER'S
42 INTENT TO VIOLATE THIS ARTICLE.

43 C. IF THE REQUIREMENTS OF THIS ARTICLE HAVE NOT BEEN MET, THE
44 REPLACING INSURER SHALL PROVIDE THE POLICY OWNER AN IN-FORCE ILLUSTRATION,
45 IF AVAILABLE, A POLICY SUMMARY FOR THE REPLACEMENT POLICY OR THE AVAILABLE

1 DISCLOSURE DOCUMENT FOR THE REPLACEMENT CONTRACT AND THE APPROPRIATE NOTICE
2 REGARDING REPLACEMENTS PRESCRIBED IN SECTION 20-1241.03.

3 D. THE DIRECTOR MAY IMPOSE THE FOLLOWING PENALTIES FOR A VIOLATION OF
4 THIS ARTICLE EITHER SEPARATELY OR IN COMBINATION:

5 1. REVOCATION OR SUSPENSION OF AN INSURANCE PRODUCER'S OR COMPANY'S
6 LICENSE.

7 2. CIVIL MONETARY PENALTIES.

8 3. FORFEITURE OF ANY COMMISSIONS OR COMPENSATION PAID TO AN INSURANCE
9 PRODUCER AS A RESULT OF THE TRANSACTION IN CONNECTION WITH WHICH THE
10 VIOLATIONS OCCURRED.

11 4. IF THE DIRECTOR HAS DETERMINED THAT THE VIOLATIONS WERE MATERIAL
12 TO THE SALE, THE INSURER MAY BE REQUIRED TO MAKE RESTITUTION, RESTORATION OF
13 POLICY OR CONTRACT VALUES AND INTEREST AT THE MAXIMUM LAWFUL RATE ON THE
14 AMOUNT REFUNDED IN CASH.

15 20-1241.09. Rules; exemption from rule making procedures

16 A. THE DIRECTOR MAY ADOPT RULES NECESSARY TO IMPLEMENT THE
17 REQUIREMENTS OF THIS ARTICLE.

18 B. THE DEPARTMENT IS EXEMPT FROM TITLE 41, CHAPTER 6, ARTICLES 3 AND
19 5 FOR THE PURPOSES OF ADOPTING RULES THAT ESTABLISH THE FORM AND CONTENT OF
20 ANY CONSUMER NOTICES, DISCLOSURE FORMS, BUYER'S GUIDES AND OTHER FORMS
21 REQUIRED BY THIS ARTICLE. THE REQUIREMENTS ADOPTED BY RULE FOR ANY SUCH
22 NOTICES, FORMS AND GUIDES SHALL SUBSTANTIALLY CONFORM TO THOSE ADOPTED IN
23 MODEL REGULATIONS ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE
24 COMMISSIONERS.

25 ARTICLE 1.2. ANNUITY DISCLOSURE

26 20-1242. Definitions

27 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

28 1. "CONTRACT OWNER" MEANS THE OWNER NAMED IN THE ANNUITY CONTRACT OR
29 CERTIFICATE HOLDER IN THE CASE OF A GROUP ANNUITY CONTRACT.

30 2. "DETERMINABLE ELEMENTS" MEANS ELEMENTS THAT ARE DERIVED FROM
31 PROCESSES OR METHODS THAT ARE GUARANTEED AT ISSUE AND THAT ARE NOT SUBJECT
32 TO COMPANY DISCRETION, BUT WHERE THE VALUES OR AMOUNTS CANNOT BE DETERMINED
33 UNTIL SOME POINT AFTER ISSUE. THESE ELEMENTS INCLUDE THE PREMIUMS, CREDITED
34 INTEREST RATES, INCLUDING ANY BONUS, BENEFITS, VALUES, NONINTEREST BASED
35 CREDITS, CHARGES OR ELEMENTS OF FORMULAS USED TO DETERMINE ANY OF THESE.
36 THESE ELEMENTS MAY BE DESCRIBED AS GUARANTEED BUT NOT DETERMINED AT ISSUE.
37 AN ELEMENT IS CONSIDERED DETERMINABLE IF IT IS CALCULATED FROM UNDERLYING
38 DETERMINABLE ELEMENTS ONLY OR FROM BOTH DETERMINABLE AND GUARANTEED ELEMENTS.

39 3. "GENERIC NAME" MEANS A SHORT TITLE DESCRIPTIVE OF THE ANNUITY
40 CONTRACT BEING APPLIED FOR OR ILLUSTRATED SUCH AS "SINGLE PREMIUM DEFERRED
41 ANNUITY".

42 4. "GUARANTEED ELEMENTS" MEANS THE PREMIUMS, CREDITED INTEREST RATES,
43 INCLUDING ANY BONUS, BENEFITS, VALUES, NONINTEREST BASED CREDITS, CHARGES,
44 OR ELEMENTS OF FORMULAS USED TO DETERMINE ANY OF THESE, THAT ARE GUARANTEED

1 AND DETERMINED AT ISSUE. AN ELEMENT IS CONSIDERED GUARANTEED IF ALL OF THE
2 UNDERLYING ELEMENTS THAT GO INTO ITS CALCULATION ARE GUARANTEED.

3 5. "INSURANCE PRODUCER" HAS THE SAME MEANING PRESCRIBED IN SECTION
4 20-281.

5 6. "NONGUARANTEED ELEMENTS" MEANS THE PREMIUMS, CREDITED INTEREST
6 RATES, INCLUDING ANY BONUS, BENEFITS, VALUES, NONINTEREST BASED CREDITS,
7 CHARGES, OR ELEMENTS OF FORMULAS USED TO DETERMINE ANY OF THESE, THAT ARE
8 SUBJECT TO COMPANY DISCRETION AND THAT ARE NOT GUARANTEED AT ISSUE. AN
9 ELEMENT IS CONSIDERED NONGUARANTEED IF ANY OF THE UNDERLYING NONGUARANTEED
10 ELEMENTS ARE USED IN ITS CALCULATION.

11 7. "STRUCTURED SETTLEMENT ANNUITY" MEANS A QUALIFIED FUNDING ASSET AS
12 DEFINED IN SECTION 130(d) OF THE INTERNAL REVENUE CODE OR AN ANNUITY THAT
13 WOULD BE A QUALIFIED FUNDING ASSET UNDER SECTION 130(d) BUT FOR THE FACT THAT
14 IT IS NOT OWNED BY AN ASSIGNEE UNDER A QUALIFIED ASSIGNMENT.

15 20-1242.01. Applicability and scope

16 A. THIS ARTICLE APPLIES TO ALL GROUP AND INDIVIDUAL ANNUITY CONTRACTS
17 AND CERTIFICATES EXCEPT:

18 1. REGISTERED OR NONREGISTERED VARIABLE ANNUITIES OR OTHER REGISTERED
19 PRODUCTS.

20 2. IMMEDIATE AND DEFERRED ANNUITIES THAT CONTAIN NO NONGUARANTEED
21 ELEMENTS.

22 3. ANNUITIES USED TO FUND:

23 (a) AN EMPLOYEE PENSION PLAN THAT IS COVERED BY THE EMPLOYEE
24 RETIREMENT INCOME SECURITY ACT OF 1974 (29 UNITED STATES CODE SECTION 1001
25 THROUGH 1461).

26 (b) A PLAN DESCRIBED BY SECTIONS 401(a), 401(k) OR 403(b) OF THE
27 INTERNAL REVENUE CODE, WHERE THE PLAN, FOR PURPOSES OF THE EMPLOYEE
28 RETIREMENT INCOME SECURITY ACT OF 1974, IS ESTABLISHED OR MAINTAINED BY AN
29 EMPLOYER.

30 (c) A GOVERNMENTAL OR CHURCH PLAN AS DEFINED IN SECTION 414 OF THE
31 INTERNAL REVENUE CODE OR A DEFERRED COMPENSATION PLAN OF A STATE OR LOCAL
32 GOVERNMENT OR A TAX EXEMPT ORGANIZATION PURSUANT TO SECTION 457 OF THE
33 INTERNAL REVENUE CODE.

34 (d) A NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENT ESTABLISHED OR
35 MAINTAINED BY AN EMPLOYER OR PLAN SPONSOR.

36 4. STRUCTURED SETTLEMENT ANNUITIES.

37 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THIS ARTICLE APPLIES
38 IF:

39 1. ANNUITIES ARE USED TO FUND A PLAN OR ARRANGEMENT THAT IS FUNDED
40 SOLELY BY CONTRIBUTIONS AN EMPLOYEE ELECTS TO MAKE ON A PRETAX OR AFTER TAX
41 BASIS.

42 2. THE INSURER HAS BEEN NOTIFIED THAT PLAN PARTICIPANTS MAY CHOOSE
43 FROM AMONG TWO OR MORE FIXED ANNUITY PROVIDERS.

1 3. THERE IS A DIRECT SOLICITATION OF ANY INDIVIDUAL EMPLOYEE BY AN
2 INSURANCE PRODUCER FOR THE PURCHASE OF AN ANNUITY CONTRACT. FOR THE PURPOSES
3 OF THIS PARAGRAPH, DIRECT SOLICITATION DOES NOT INCLUDE ANY MEETING HELD BY
4 AN INSURANCE PRODUCER SOLELY FOR THE PURPOSE OF EDUCATING OR ENROLLING
5 EMPLOYEES IN THE PLAN OR ARRANGEMENT.

6 20-1242.02. Standards for the disclosure document and buyer's
7 guide

8 A. IF THE APPLICATION FOR AN ANNUITY CONTRACT IS TAKEN IN A
9 FACE-TO-FACE MEETING, THE APPLICANT, AT OR BEFORE THE TIME OF APPLICATION,
10 SHALL BE GIVEN BOTH THE DISCLOSURE DOCUMENT AND THE BUYER'S GUIDE IN THE FORM
11 PRESCRIBED BY THE DIRECTOR.

12 B. IF THE APPLICATION FOR AN ANNUITY CONTRACT IS TAKEN BY MEANS OTHER
13 THAN IN A FACE-TO-FACE MEETING, THE APPLICANT SHALL BE SENT BOTH THE
14 DISCLOSURE DOCUMENT AND THE BUYER'S GUIDE NO LATER THAN FIVE BUSINESS DAYS
15 AFTER THE COMPLETED APPLICATION IS RECEIVED BY THE INSURER.

16 C. WITH RESPECT TO AN APPLICATION RECEIVED AS A RESULT OF A DIRECT
17 SOLICITATION THROUGH THE MAIL:

18 1. PROVIDING A BUYER'S GUIDE IN A MAILING THAT INVITES PROSPECTIVE
19 APPLICANTS TO APPLY FOR AN ANNUITY CONTRACT IS DEEMED TO SATISFY THE
20 REQUIREMENT THAT THE BUYER'S GUIDE BE PROVIDED NO LATER THAN FIVE BUSINESS
21 DAYS AFTER RECEIPT OF THE APPLICATION.

22 2. PROVIDING A DISCLOSURE DOCUMENT IN A MAILING THAT INVITES A
23 PROSPECTIVE APPLICANT TO APPLY FOR AN ANNUITY CONTRACT IS DEEMED TO SATISFY
24 THE REQUIREMENT THAT THE DISCLOSURE DOCUMENT BE PROVIDED NO LATER THAN FIVE
25 BUSINESS DAYS AFTER RECEIPT OF THE APPLICATION.

26 D. WITH RESPECT TO AN APPLICATION RECEIVED THROUGH THE INTERNET:

27 1. TAKING REASONABLE STEPS TO MAKE THE BUYER'S GUIDE AVAILABLE FOR
28 VIEWING AND PRINTING ON THE INSURER'S WEB SITE IS DEEMED TO SATISFY THE
29 REQUIREMENT THAT THE BUYER'S GUIDE BE PROVIDED NOT LATER THAN FIVE BUSINESS
30 DAYS AFTER RECEIPT OF THE APPLICATION.

31 2. TAKING REASONABLE STEPS TO MAKE THE DISCLOSURE DOCUMENT AVAILABLE
32 FOR VIEWING AND PRINTING ON THE INSURER'S WEB SITE IS DEEMED TO SATISFY THE
33 REQUIREMENT THAT THE DISCLOSURE DOCUMENT BE PROVIDED NOT LATER THAN FIVE
34 BUSINESS DAYS AFTER RECEIPT OF THE APPLICATION.

35 E. A SOLICITATION FOR AN ANNUITY CONTRACT PROVIDED IN OTHER THAN A
36 FACE-TO-FACE MEETING SHALL INCLUDE A STATEMENT THAT THE PROPOSED APPLICANT
37 MAY CONTACT THE INSURER FOR A FREE ANNUITY BUYER'S GUIDE.

38 F. IF THE BUYER'S GUIDE AND DISCLOSURE DOCUMENT ARE NOT PROVIDED AT
39 OR BEFORE THE TIME OF APPLICATION, A FREE LOOK PERIOD OF NOT LESS THAN
40 FIFTEEN DAYS SHALL BE PROVIDED FOR THE APPLICANT TO RETURN THE ANNUITY
41 CONTRACT WITHOUT PENALTY. THIS FREE LOOK PERIOD SHALL RUN CONCURRENTLY WITH
42 ANY OTHER FREE LOOK PERIOD PROVIDED UNDER STATUTE.

1 G. AT A MINIMUM, THE FOLLOWING INFORMATION SHALL BE INCLUDED IN THE
2 DISCLOSURE DOCUMENT REQUIRED TO BE PROVIDED UNDER THIS ARTICLE:

3 1. THE GENERIC NAME OF THE CONTRACT, THE COMPANY PRODUCT NAME, IF
4 DIFFERENT, THE FORM NUMBER AND THE FACT THAT IT IS AN ANNUITY.

5 2. THE INSURER'S NAME AND ADDRESS.

6 3. A DESCRIPTION OF THE CONTRACT AND ITS BENEFITS, EMPHASIZING ITS
7 LONG-TERM NATURE AND INCLUDING EXAMPLES WHERE APPROPRIATE.

8 4. THE GUARANTEED, NONGUARANTEED AND DETERMINABLE ELEMENTS OF THE
9 CONTRACT, THEIR LIMITATIONS, IF ANY, AND AN EXPLANATION OF HOW THEY OPERATE.

10 5. AN EXPLANATION OF THE INITIAL CREDITING RATE, SPECIFYING ANY BONUS
11 OR INTRODUCTORY PORTION, THE DURATION OF THE RATE AND THE FACT THAT RATES MAY
12 CHANGE FROM TIME TO TIME AND ARE NOT GUARANTEED.

13 6. THE PERIODIC INCOME OPTIONS BOTH ON A GUARANTEED AND NONGUARANTEED
14 BASIS.

15 7. ANY VALUE REDUCTIONS CAUSED BY WITHDRAWALS FROM OR SURRENDER OF THE
16 CONTRACT.

17 8. HOW VALUES IN THE CONTRACT CAN BE ACCESSED.

18 9. THE DEATH BENEFIT, IF AVAILABLE, AND HOW IT WILL BE CALCULATED.

19 10. A SUMMARY OF THE FEDERAL TAX STATUS OF THE CONTRACT AND ANY
20 PENALTIES APPLICABLE ON WITHDRAWAL OF VALUES FROM THE CONTRACT.

21 11. THE IMPACT OF ANY RIDER, SUCH AS A LONG-TERM CARE RIDER.

22 12. THE SPECIFIC DOLLAR AMOUNT OR PERCENTAGE CHARGES. FEES SHALL BE
23 LISTED WITH AN EXPLANATION OF HOW THEY APPLY.

24 13. INFORMATION ABOUT THE CURRENT GUARANTEED RATE FOR NEW CONTRACTS
25 THAT CONTAINS A CLEAR NOTICE THAT THE RATE IS SUBJECT TO CHANGE.

26 20-1242.03. Report to contract owners

27 FOR ANNUITIES IN THE PAYOUT PERIOD WITH CHANGES IN NONGUARANTEED
28 ELEMENTS AND FOR THE ACCUMULATION PERIOD OF A DEFERRED ANNUITY, THE INSURER
29 SHALL PROVIDE EACH CONTRACT OWNER WITH A REPORT, AT LEAST ANNUALLY, ON THE
30 STATUS OF THE CONTRACT THAT CONTAINS AT LEAST THE FOLLOWING INFORMATION:

31 1. THE BEGINNING AND END DATE OF THE CURRENT REPORT PERIOD.

32 2. THE ACCUMULATION AND CASH SURRENDER VALUE, IF ANY, AT THE END OF
33 THE PREVIOUS REPORT PERIOD AND AT THE END OF THE CURRENT REPORT PERIOD.

34 3. THE TOTAL AMOUNTS, IF ANY, THAT HAVE BEEN CREDITED, CHARGED TO THE
35 CONTRACT VALUE OR PAID DURING THE CURRENT REPORT PERIOD.

36 4. THE AMOUNT OF OUTSTANDING LOANS, IF ANY, AS OF THE END OF THE
37 CURRENT REPORT PERIOD.

38 20-1242.04. Penalties

39 AN INSURER OR INSURANCE PRODUCER THAT VIOLATES THIS ARTICLE IS SUBJECT
40 TO PENALTIES PRESCRIBED UNDER SECTIONS 20-220, 20-295 AND 20-456.

41 20-1242.05. Rules; exemption from rule making procedures

42 A. THE DIRECTOR MAY ADOPT RULES THAT ARE NECESSARY TO IMPLEMENT THE
43 REQUIREMENTS OF THIS ARTICLE.

1 B. THE DEPARTMENT IS EXEMPT FROM TITLE 41, CHAPTER 6, ARTICLES 3 AND
2 5 FOR THE PURPOSES OF ADOPTING RULES THAT ESTABLISH THE FORM AND CONTENT OF
3 ANY CONSUMER NOTICES, DISCLOSURE FORMS, BUYER'S GUIDES AND OTHER FORMS
4 REQUIRED BY THIS ARTICLE. THE REQUIREMENTS ADOPTED BY RULE FOR ANY SUCH
5 NOTICES, FORMS AND GUIDES SHALL SUBSTANTIALLY CONFORM TO THOSE ADOPTED IN
6 MODEL REGULATIONS ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE
7 COMMISSIONERS.

8 Sec. 3. Effective date

9 Title 20, chapter 6, articles 1.1 and 1.2, Arizona Revised Statutes,
10 as added by this act, are effective from and after December 31, 2003.

APPROVED BY THE GOVERNOR MAY 16, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 16, 2003.

Passed the House February 24, 2003

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

Jake Flake
Speaker of the House

German L. Frye
Chief Clerk of the House

Passed the Senate April 30, 2003

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Ken Bennett
President of the Senate

Charmian Ballenton
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2186

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 12, 2003.

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

John Elster
Speaker of the House
Sprman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12 day of May, 2003

at 2:05 o'clock P M.

Landra Ramirez
Secretary to the Governor

Approved this 16 day of

May, 2003,

at 10 o'clock A M.

Jon R. Noriega
Governor of Arizona

H.B. 2186

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 16 day of May, 2003,

at 3:16 o'clock P M.

Janice K. Brewer
Secretary of State